

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 10-cv-01715-PAB-KMT

PATRICE KAHN, individually and on behalf of One Twenty Financial Services, Inc., a  
Missouri corporation, and  
FARRELL KAHN,

Plaintiffs,

v.

LESLIE DAVIS and  
ONE TWENTY FINANCIAL SERVICES, a Missouri corporation,

Defendants.

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**MINUTE ORDER**

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**Entered by Judge Philip A. Brimmer**

This matter is before the Court on defendants' Motion to Dismiss [Docket No. 10]. On September 15, 2010, plaintiffs filed an Amended Complaint [Docket No. 11] as a matter of course under Fed. R. Civ. P. 15(a)(1). Due to a docketing error, plaintiffs re-filed the Amended Complaint on September 16, 2010 [Docket No. 13]. Thus, the Amended Complaint became the operative pleading in this action, and the Motion to Dismiss [Docket No. 10] is directed to an inoperative, superseded pleading. *See, e.g., Gilles v. United States*, 906 F.2d 1386, 1389 (10th Cir. 1990) ("a pleading that has been amended under Rule 15(a) supersedes the pleading it modifies") (internal quotation marks omitted). As such, the motion to dismiss is moot. It is

ORDERED that the Motion to Dismiss [Docket No. 10] is DENIED as moot.

DATED October 8, 2010.